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KANSAS

JOHN P. SMITH, ADMINISTRATOR

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF CREDIT UNIONS

VIA E-Mail and U. S. Mail

March 30, 2009

Mary Rupp
Secretary to the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314

Re: Comments on Advanced Notice of Proposed Rulemaking for Part 704

Dear Ms. Rupp:

The Kansas Department of Credit Unions (KDCU) appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) Advanced Notice of Proposed Rulemaking (ANPR) on Part 704, Corporate Credit Unions. KDCU is the regulator for 85 natural person Kansas credit unions with assets of 3.4 million dollars and Kansas Corporate Credit Union (KCCU).

KDCU has reviewed the draft comment letter being prepared for submission by the National Association of State Credit Union Supervisors (NASCUS) and as a member of NASCUS, supports their comments. KDCU's comments are submitted from the perspective of a state credit union regulator who regulates only credit unions and where the first corporate credit union (KCCU) was chartered in 1951 with U.S. Central Credit Union chartered in 1974. U.S. Central Credit Union remained a Kansas chartered credit union until changing to a federal credit union in 2005.

<u>Events creating the reduction in value of certain assets held by U.S. Central Federal Credit Union (USCFCU)</u>

A combination of the significant deterioration in the credit markets and quality of mortgage securities, the loss of confidence in the financial markets, and the lack of appropriate oversight by the securities rating agencies caused the severe market dislocation and loss of value in the investments held by USCFCU. KDCU urges that a detailed review of these events along with a determination of their effect on USCFCU and the corporate credit unions occur before NCUA rushes to make changes in the credit union system, statutes, regulations and regulatory structure. Any changes whether statutory, regulatory or structural, should involve the consultation and input of all state credit union regulators. NASCUS is the logical organization to assist NCUA in studying what changes, if any, should be made. A joint review of what occurred by a combination of state and federal regulators is necessary.

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The Role of Corporates in the Credit Union System

NCUA requests comments on the second or wholesale tier of the corporate system to address appropriate capital levels, liquidity and investment authorities and structure validity, including possible modifications based upon the investment and payment services.

The fact that some corporate credit unions such as KCCU are pass-through organization of USCFCU and other corporates employ more aggressive investment strategies should be viewed and evaluated separately. Elimination of the second tier corporates such as KCCU would leave their member credit unions to competitors and other financial intermediaries who do not have the credit union industry's best interest at heart. Predetermination of the appropriate number of corporate credit unions is arbitrary and may not best serve natural person credit unions. Over at least the past fifteen-years, the corporate credit union system has been consolidating and evolving, and will continue to do so without NCUA's intervention. The appropriate number of corporates will naturally evolve by active market forces based on their value to natural person credit unions.

Requiring natural person credit unions to have paid-in-capital (PIC) in any corporate they use, would probably cause consolidation. Natural person credit unions of small, medium and large asset size and service level all need an equal voice in determining the corporate network.

A wholesale corporate such as USCFCU is a necessary component of the system, especially for pass-through corporates like KCCU.

Separation of the payment system from corporates is unnecessary. Today USCFCU is the recognized settlement system for the credit union industry and should remain so unless compelling rationale exists to make necessary changes. The market place supports the present payment system.

Field of Membership and Board Governance

An equal number or corporates are organized and governed under state and federal statutes. Field of membership and board governance are best left to the primary regulator to determine. The information available today does not support that general board structure or national field of memberships created deterioration in value of investments that corporates hold. Addition of natural person credit union representation on USCCU's board as had occurred until recently probably would increase the quality and diversity of board governance. A natural person credit union representative from a Kansas credit union was a member of U.S. Central Credit Union's board of directors until the credit union changed to a federal charter.

Transparency

The drastic losses to credit unions and the lack of suitable information provided to those experiencing these losses cries for transparency. KDCU statutorily is responsible for the safety and soundness of KCCU, but has been denied access to information used by NCUA as justification to conserve USCFCU. KDCU is the primary safety and soundness regulator of KCCU. Kansas credit unions have contacted KDCU requesting information utilized by NCUA in the decision to place U.S. Central Federal Credit Union into conservatorship that NCUA has not made available. KDCU routinely provides information to NCUA; flow of information must be a two-way effort. The current situation is unacceptable.

Systemic Risk Oversight

Corporate credit union systemic risk and concentration can be reduced but not totally eliminated. This is best accomplished through a combination of risk measurement at the corporate level with appropriate oversight by state and federal regulators. Homogenization as now exists through federal regulation of the larger asset corporate credit union that hold the assets creating the current problem may have contributed to systemic and concentration risk. KDCU has investment requirements for natural person credit unions that vary from Part 703 for federal credit unions. Regulators for several years have expressed concern regarding homogenization and risk concentration. How, the extent of or if systemic risk and concentration contributed to the current situation must be carefully evaluated before making any changes in the regulatory structure.

Capital

Corporate credit unions must retain higher capital reserves including risk-based capital weighted to the assets held. State regulators should work with NCUA in a cooperative manner to develop comprehensive capital requirements based on risk, concentration, evaluation tools and steps to be taken if capital or risk measures signals an unacceptable level of risk.

In summary, KDCU appreciates the opportunity to provide comments, supports the comments provided by NASCUS on behalf of the state regulatory agencies that regulate credit unions and respectively request additional sharing of information with NCUA and increased transparency.

Yours truly,

John P. Smith

John P. Smith
Administrator

JPS/cb

cc: Kansas Credit Union Council
Kansas Credit Union Association
National Association of State Credit Union Supervisors
Kansas Corporate Credit Union
The Honorable Gigi Hyland, NCUA Board Member
The Honorable Michael Fryzel, Chairman, NCUA Board
The Honorable Rodney Hood, NCUA Board Member